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Oceans and the law of the sea: oceans and the law of the sea

Summary report of the 2017 parliamentary hearing

Note by the President of the General Assembly

The present document contains the summary report of the 2017 parliamentary hearing, held in New York on 13 and 14 February 2017, which is circulated pursuant to General Assembly resolution 65/123.

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A world of blue: preserving the oceans, safeguarding the planet and ensuring human well-being in the context of the 2030 Agenda

Summary report on the 2017 parliamentary hearing, jointly organized by the Inter-Parliamentary Union and the Office of the President of the General Assembly at United Nations Headquarters, 13 and 14 February 2017

Opening session

1. The 2017 parliamentary hearing served as an opportunity for parliamentarians to discuss issues related to ocean health in preparation for the United Nations Conference to Support the Implementation of Sustainable Development Goal 14 (see General Assembly resolution 70/226), which will be convened at United Nations Headquarters in New York from 5 to 9 June 2017. Co-hosted by the Governments of Fiji and Sweden, the Conference will aim to generate concrete commitments and solutions to reverse the decline in the health of the ocean.[1]

2. The two-day session was opened by the President of the General Assembly, Peter Thomson, the President of the Inter-Parliamentary Union (IPU), Saber Chowdhury, and the Under-Secretary-General for Economic and Social Affairs, who spoke on behalf of the Secretary-General.

3. The President of the General Assembly recognized the critical role of parliamentarians as standard-bearers, policy shapers and legislators. He advised parliamentarians to use the hearing as a step towards preparing their Governments for the Ocean Conference and asked them specifically to come to the Conference with voluntary commitments at the regional, national and local levels to reinforce global efforts. He recommended that parliamentarians use Sustainable Development Goal 14 and its targets and indicators as a road map for improving the health of the ocean.

4. The President of IPU commended the mutually reinforcing partnership between IPU and the United Nations and noted that the Secretary-General was formerly a parliamentarian. As a citizen of Bangladesh, a low-lying country, the President of IPU was keenly aware of the risks presented by rising sea levels. By 2050, as many as 30 million people in Bangladesh might be displaced from coastal areas. As in other countries, most of the individuals vulnerable to displacement were among the poorest of the poor.

5. The President of IPU identified a range of issues that related to or had an impact on ocean health: the resilience of local economies, cultural heritage, climate change, marine pollution, the food chain and the extraction of natural resources from the seabed. He recommended that parliamentarians use "Parliaments and the Sustainable Development Goals: a self-assessment toolkit", a publication produced by IPU and the United Nations Development Programme, to help mainstream the Sustainable Development Goals throughout their work and fulfil their legislative and oversight functions.

6. The President of IPU framed the hearing as an important step in the journey towards achieving the Sustainable Development Goals. The aims of the Conference

[1] The scientific community has adopted the notion of one global ocean, as opposed to four distinct oceans. The concept of a global ocean system recognizes that the Pacific, Atlantic, Indian and Arctic are not oceans, but ocean basins. The present summary report refers to ocean in the singular, referring to the global ocean system.

would be to raise awareness of ocean health and encourage parliamentarians to take action to reverse the decline of the ocean.

7. The Under-Secretary-General read a message from the Secretary-General, which emphasized the centrality of the ocean, seas and coastal areas to the earth's ecosystems and to the 2030 Agenda for Sustainable Development, noting that the ocean had never been more vulnerable. While the challenges to restoring ocean health were daunting, the international community had the tools to convert challenges into opportunities.

8. In his message, the Secretary-General urged parliamentarians to focus on implementation. He described the forthcoming Conference as a unique opportunity to find concrete solutions to environmental threats.

I. The ocean and its carrying capacity

9. The single, interconnected world ocean forms about 90 per cent of the earth's biomes and is crucial for human well-being and sustainable development. Human beings depend heavily on the ocean for oxygen, nutrition and, increasingly, for drinking water. The world's population gets 17 per cent of its animal protein from the sea. For people living in 30 countries, mainly in Africa and Asia, the ocean provides 33 per cent of their animal protein; 22 of those countries are low-income and food deficient. In total, 150 countries use desalination plants to meet their population's water needs. Worldwide, desalination plants produce over 22.9 billion United States gallons of water a day. Half of the world's oxygen is produced by the ocean.

10. The ocean also plays a crucial role in local livelihoods and in the global economy. Indeed, 75 per cent of world trade by volume and 59 per cent of world trade by value travels by sea. Communications are ocean-dependent as 95 per cent of intercontinental Internet traffic passes through submarine cables. In 2015, tourism was the basis for 9.5 per cent of the world economy, half of which involved international travel to coastal areas. Finally, the seabed is an important source of crude oil, tin, magnesium, sulphur, gold and gravel. Seabed mining is likely to increase as land-based deposits are exhausted.

11. Despite its capacity for self-regeneration, the ocean is imperilled by the cumulative effects of climate change, unsustainable extraction of marine living resources, including overfishing, excessive by-catch, unsustainable coastal development and marine pollution, including in the form of hazardous substances, excess nutrients and underwater noise pollution.

12. Greenhouse gas emissions cause ocean warming, acidification and oxygen loss. The widespread effects contribute to melting ice sheets, rising sea levels and an increase in the intensity and frequency of extreme weather events. Warming ocean waters alter the composition of marine ecosystems. As species follow their preferred temperatures into new areas, new interactions produce species loss and a decline in biodiversity. This is especially true at low latitudes, where marine ecosystems are vital for the marine food chain.

13. Carbon emissions decrease the pH level of seawater, a process known as ocean acidification. A more acidic environment threatens the viability of calcifying species, including shellfish, corals and calcareous plankton, which, in turn, disrupts the food chain. Many of the changes that have taken place are irreversible: for example, there is a high risk that about 90 per cent of coral reefs will be lost to bleaching over the coming decades, even if the global surface temperature does not increase by more than 2°C above pre-industrial levels.

14. Excessive marine pollution from human activities at sea and on land, such as agriculture, sewage disposal and ship traffic, cause dead zones, low-oxygen areas in which most marine life suffocates. In dead zones, entire ecosystems are destroyed. While hypoxia is a naturally occurring phenomenon, scientists believe that human impacts have dramatically increased the number of ocean dead zones, which number more than 500 as of 2017.

15. Industrial fisheries have grown rapidly since 1945 and overall are poorly managed. Overfishing has decimated fish stocks. With better oversight, fisheries could improve productivity by 20 per cent. Large fisheries have negative impacts on small, local, "artisanal" fishers and jeopardize their livelihood, as well as the cultural heritage and economic structures that they represent.

16. The limits of the ocean's carrying capacity are being or, in some cases, have been reached. The assumption that the ocean could absorb indefinitely the by-products of human activity in any amount was flawed. The interaction between the various pressures on the ocean produces a cumulative effect that is more devastating than the sum of its parts. Integrated ocean management is essential to addressing the threats to marine ecosystems. Immediate action is necessary to reverse the ocean's decline.

II. Towards a sustainable blue economy

17. The ocean's role in human life is multifarious. The ocean and its coasts provide oxygen, climate regulation, food, including protein, medicine, human habitats, employment, cultural heritage, inspiration, recreation and a place to restore wellness. Yet, too often, the ocean has served as a site of exploitation and a dumping ground. The result is a decline in ocean health so extreme that, in many respects, damage reversal may no longer be possible, leaving damage mitigation and resilience-building as the only courses of action.

18. As many participants noted, the first step towards building a sustainable "blue economy" is to identify and address the economic drivers of pollution and overconsumption, especially in the developed world. Parliamentarians should support government policies that incentivize sustainable behaviour in the private and public sectors at the national, district and community levels.

19. While the decline in ocean health is unprecedented, tools and techniques already exist that can help reverse the decline. Genetic modification may mitigate damage done to ecosystems. In a post-plastic era, biodegradable organic materials may replace plastic. Autonomous vessels, the marine equivalent of the self-driving car, may facilitate wastewater treatment and the removal of plastics and pollution.

20. Innovative marine technologies can help meet the needs of a global population expected to reach 9 billion by 2030. As the global population expands, the need for healthy protein with a lower carbon footprint can be met by sustainable aquaculture, with the added benefit of providing employment to some of the poorest communities in coastal areas around the world.

21. The participants acknowledged the risks associated with the adoption of new technologies. While many of these technologies will require decades to develop fully, they must be carefully evaluated for their potential impact on human activities, economies and marine ecosystems. There is also the danger that fishing on the high seas (the more than 50 per cent of the ocean that lies beyond national jurisdiction) may be monopolized by big business. Parliamentarians from developing countries expressed interest in funding mechanisms to ensure innovation is not dominated by high-income countries. The discussion made clear that a new

set of investment and financial instruments is needed to nurture the development of an inclusive, sustainable ocean economy.

Myriad forms of pollution

22. Parliamentarians elaborated on the numerous forms of pollution, including:

(a) Air pollution caused by emissions;

(b) Water pollution cause by fertilizer run-off (80 per cent of all pollution in the ocean), wastewater (sewage), oil spills and marine debris, light and noise pollution, and thermal pollution due to climate change. The "polluter pays" principle is one important way to discourage pollution while creating a revenue stream to fund work on Sustainable Development Goal 14.

23. While all of these forms of pollution were mentioned during the hearing, the following topics received particular attention.

Plastic pollution

24. Every square kilometre of the ocean's surface is polluted with plastic. At every depth, from the surface to the ocean floor, the ocean is polluted by millions of kilograms of plastic. It is estimated that between 15 trillion and 50 trillion pieces of plastic are in the ocean. Abandoned, lost or otherwise discarded fishing gear and larger plastics kill marine life through entanglement, strangulation, suffocation, starvation due to reduced digestive capacity and poisoning. If pollution rates continue on their current trajectory, certain estimates indicate that there could be, by weight, more plastic than fish in the ocean by 2050.

25. A parliamentarian from Thailand remarked that a switch to a "sufficiency economy" in which moderation, rather than consumption, was the guiding value may address the core cause of plastic pollution. The Buddhist approach of the "Middle Path" places an emphasis on considering the greater good when making daily choices. A parliamentarian from Iceland suggested that a less resource-intensive pattern of consumption and production was necessary to reverse the ocean's decline.

26. There was general agreement that more plastics would be recycled if Governments were to build better collection infrastructure and raise public awareness on the issue. While recycling and collection infrastructure is costly, economies of scale can be reached if large segments of the population recycle. Banning single-use plastic bags was discussed with particular reference to the example set by countries such as France, Monaco, Morocco and Rwanda.

Impact of microplastics on food safety

27. As plastics disintegrate in ocean waters, they break down into microplastics, plastic particles so small they can be seen only through a microscope. Plankton, which are at the bottom of the marine food chain, swallow the microplastics, fish then eat the plankton and the microplastics are eventually ingested by humans. The potential health effects are devastating. More than 1 billion people rely on seafood as their primary source of protein. Microplastics are so pervasive in the ocean that they can even be found in table salt. The Food and Agriculture Organization of the United Nations has convened a group of experts to evaluate the effects of microplastics on food safety.

Microbeads

28. Microbeads are tiny plastic particles used in toothpaste, cosmetics and beauty products that wastewater treatment facilities cannot break down. They arrive intact in the ocean where they absorb other pollutants such as motor oil, flame retardants and pesticides. Marine life then consumes these tiny, highly toxic particles. Many countries, including Canada and the United States of America, have banned the use of microbeads. Many parliamentarians advocated an international ban.

Ghost gear

29. Several participants discussed the damage done by ghost gear, marine equipment discarded by fishers. It is a major cause of depleted fish stocks and accounts for 10 per cent of all marine litter.

Wastewater

30. Several parliamentarians expressed the desire to improve wastewater management in developing countries, as well as to improve waste disposal facilities on vessels. The 2012 Manila Declaration on Furthering the Implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities cited wastewater management as one of the three main priority areas for the Global Programme of Action. A parliamentarian from Italy observed that pollution from ships was spoiling coastal waters in and near port towns. He proposed that severe fines be imposed for illegal waste and litter to ensure compliance with the law. Up to 80 per cent of urban sewage discharged into the Mediterranean Sea is untreated. It was suggested that an international database be established to record data on infractions by vessels and industrial fisheries around the world to facilitate the enforcement of corporate responsibility and international law.

Recommendations

31. The participants put forward the following recommendations:

(a) Encourage manufacturers to design multi-use products with a sustainable end-of-life scenario. This will ensure that biodegradable products are the norm in future;

(b) Educate consumers in making responsible choices with regard to plastics;

(c) Consider banning single-use plastics, particularly bags, as well as Styrofoam;

(d) Improve collection infrastructure to make recycling easier;

(e) Incentivize manufacturers to explore the use of biodegradable alternatives to plastic;

(f) Incentivize fishers to bring their gear back to land;

(g) In coastal communities, encourage start-ups to creatively upcycle or reuse marine gear by turning it into new products;

(h) Invest in mobile waste collection on boats to remove marine litter;

(i) Consider subsidies to make environmentally friendly products more affordable;

(j) Impose an international ban on microbeads;

(k) Consistent with the "polluter pays" principle, impose severe fines on companies that do not observe sustainable practices and local and international laws regarding wastewater management and litter. Use the resulting revenue to invest in sustainable marine ecosystem management and resilience-building;

(l) Pursue innovative financing to improve management of wastewater treatment plants;

(m) Incentivize local solutions and start-ups to provide services to improve wastewater treatment;

(n) Declare coral reefs protected marine areas to slow coral bleaching and mitigate the effects of thermal pollution.

Fishing

32. Small-scale fisheries provide the most employment of all the ocean-based industries: 52 million full-time and part-time fishers and fish workers are employed in small-scale fisheries, with 96 per cent of the workers living in developing countries.

33. The scourge of overfishing by industrial fisheries has put the employment of small-scale fishers and the production of fish protein at high risk. Unsustainable fishing practices have depleted fish stocks, dramatically threatening the viability of local artisanal fishers and decreasing biodiversity. Several parliamentarians lamented the overfishing by industrial fleets, weak regulation and lack of enforcement of existing laws. A parliamentarian from Ireland described the outrage felt by Irish artisanal fishers who abide by strict European Union regulations only to observe industrial fishing fleets trawling for unsustainable yields.

34. The problem is exacerbated in low-income countries whose waters are overfished by industrial fleets based in larger and richer nations. A minister from Fiji asked what could be done to protect small island nations like her own which observed regulations regarding overfishing, but suffered the consequences of large corporate fishing companies, which did not.

35. Industrial fishing practices are alarmingly inefficient. A parliamentarian from Norway remarked that commercial fisheries discard about 80 per cent of the fish they catch. The discarding of "by-catch" owing to the incidental capture of non-target fish has caused a significant decline in biodiversity. By-catch often includes endangered species. A participant noted that vast subsidies to industrial fisheries effectively encourage overfishing. If those harmful subsidies were eliminated, the funds could be redirected to conservation. Several parliamentarians discussed the importance of enabling depleted stocks to recover. In this context, marine protected areas were identified as a promising method for stock recovery.

36. The role of consumers and the private sector in promoting sustainable fishing was discussed. Tuna, a high-demand fish in decreasing supply, was cited as an example of how innovative practices might encourage sustainability. The use of data trackers can ensure end-to-end traceability of tuna, creating transparency between fisheries and consumers. Tuna labelled "fair trade" would cost consumers more, but provide a guarantee that it was sustainably sourced. One parliamentarian cautioned that most consumers would not be able to afford the surcharge associated with "fair trade" products.

37. It was recommended that artisanal fishers, many of whom belong to communities that have fished for centuries and even millennia, should be included in decision-making. Their local expertise and fishing knowledge could help solve the problem of depleted stocks and waning biodiversity. In the same vein,

parliamentarians expressed a commitment to preserve the cultural heritage of coastal communities, where sustainable fishing was vital to both the communities and their cultures.

38. The potential of aquaculture to produce the vast amounts of fish protein needed by a growing global population was explored, together with a concern for its impact on coastal habitats and mangroves. While aquaculture will be a major production method for meeting humanity's nutritional needs, it needs to be managed carefully to reduce its impact on biodiversity, artisanal fishers and coastal communities.

Recommendations

39. The participants put forward the following recommendations:

(a) Ensure sustainable fishing. The United Nations Convention on the Law of the Sea protects small-scale fisheries and outlaws unsustainable fishing. Better regulation, monitoring and enforcement of existing agreements, such as the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the Food and Agriculture Organization of the United Nations, are needed. Parliamentarians should ensure compliance;

(b) Encourage Governments to pass a legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;

(c) Link trade and sustainability such that trade deals must contribute to Sustainable Development Goal 14 in order to be approved by parliaments;

(d) Impose severe fines on vessels that do not observe local and/or international laws with regard to overfishing and pollution;

(e) Scale up innovative methods, such as a fair trade labelling, to develop markets for sustainably farmed fish;

(f) Use data trackers to ensure end-to-end traceability, monitoring, regulation and consumer confidence;

(g) Integrate the voices, wisdom and expertise of local fishers and their coastal communities in decision-making. Ancient fishing communities are a part of our collective cultural heritage and can make an essential contribution to the solutions to ocean decline;

(h) Engage as many stakeholders as possible in the process, including ocean users, industry, civil society organizations, citizen scientists, children and students;

(i) Enforce fishing quotas and maximum sustainable yields, as well as moratoriums on fishing to allow fish stocks enough time to regenerate;

(j) Manage aquaculture growth so that it does not displace artisanal fishers, depress biodiversity or threaten the coastal environment through the clearing of mangroves and coastal habitats;

(k) Create marine protected areas to enable depleted fishing stocks to recover;

(l) Discourage harmful subsidies and redirect funds to ocean conservation.

Extractive industries, marine genetic resources and cables

Seabed mining

40. The seabed of the high seas, which account for more than 50 per cent of the ocean, is capable of providing humanity with a source of minerals for many hundreds, if not thousands, of years. Under the United Nations Convention on the Law of the Sea, these mineral resources are legally recognized as the common heritage of humankind. Under international law, the economic benefits derived from such resources must be shared equally between all nations.

41. The International Seabed Authority was established under the Convention to regulate deep seabed mining. The Authority controls access to mineral resources by awarding mining contracts. Applications for seabed mining contracts may be sponsored by any of the 168 nations that are party to the Convention. As such, nations at any stage of development, including landlocked countries, have equal rights to apply for contracts to mine the seabed for mineral resources. The Authority awards contracts based on the consensus of its members.

42. For most of the Authority's 30-year history, the technological and financial challenges involved in extracting minerals from the seabed have acted as barriers to significant rates of ocean mining. As those barriers are more easily surmounted, there is likely to be a dramatic increase in seabed mining. Currently, the most active mining area is the Clarion-Clipperton Zone in the high seas off the coast of Mexico and California, United States. There are 16 active operations in the area, covering 3 per cent of the Pacific Ocean and it would take several thousand years to exhaust the supply of minerals accessible through even one mine in one of those 16 areas under exploration.

43. Parliamentarians expressed concern about the environmental threats of seabed mining. As the rate of seabed mining increases, parliamentarians have a responsibility to monitor the impact and make certain that their government contracts with the International Seabed Authority adhere to the mining regulations under the United Nations Convention on the Law of the Sea.

Marine genetic resources

44. Marine scientific research in international waters is open to all nations. However, marine genetic resources have an unclear legal character and are not defined in the United Nations Convention on the Law of the Sea. There are States that argue that marine genetic resources should be included as part of the common heritage of humankind, and others that argue the opposite position, that they fall under the freedom of the high seas. Negotiations for a legally binding legal instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction are ongoing. A common view on several difficult topics must be achieved by Member States. In this context, parliamentarians can support an advancement of the negotiations and later ensure the implementation of the legally binding instrument.

Submarine telecommunication cables

45. While many assume that most communications are transmitted by satellite, 95 per cent of international communications are, in fact, transmitted through submarine cables, which are therefore a matter of national and international security. Submarine cables need to be maintained and protected from the impact of natural disasters, the movement of tectonic plates, technical failure, accidental interference through deep sea fishing and intentional damage.

46. While 99 per cent of the cables are owned and operated by the private sector rather than Governments, under the United Nations Convention on the Law of the Sea most nations have the obligation to safeguard and protect submarine cables both within their exclusive economic zone and outside their territorial seas. However, few countries have modern legislation to protect cables. Parliamentarians should advocate the maintenance of submarine cables to safeguard international communications and bandwidth. They can also press their Governments to ensure that industrial fishing does not interfere with cables.

47. A member of the International Cable Protection Committee described the environmental impact of submarine cables as benign owing to the use of chemically inert materials. The cables are laid along the seabed where, according to the industry, they have minimal impact on marine life. Because the areas where the cables are placed are protected from human intervention, the cable corridors become, in effect, marine protected areas, encouraging biodiversity.

48. Strong broadband connections are the basis of the digital economy and it is therefore a matter of social justice that all countries have a robust broadband connection. Coastal countries are at an advantage in this regard and can consider sharing their bandwidth with their inland neighbours.

Nuclearization of the ocean

49. Radioactive material in the ocean poses a unique threat to marine and human health that scientists have yet to quantify. A parliamentarian expressed concern that radioactivity had been measured in the ocean and that nuclear tests had been carried out in French Polynesia. Another noted that the radioactive plume from the damaged nuclear plant in Fukushima, Japan, had been detected in the Pacific Ocean.

50. Though nuclear testing in the ocean is now forbidden, nuclear submarines still navigate the ocean. A parliamentarian asked whether the denuclearization of the ocean would be an appropriate topic for the United Nations high-level international conference on nuclear disarmament. The Secretary-General of the International Seabed Authority observed that the United Nations Convention on the Law of the Sea had established that the seabed area be used exclusively for peaceful purposes. It prohibits the militarization of the deep sea.

Recommendations

51. The participants put forward the following recommendations:

(a) Ensure that radioactivity tests of ocean waters take place as part of the ongoing evaluation of ocean health;

(b) Require that an environmental impact assessment be performed prior to every seabed mining licensing agreement;

(c) Demand that marine genetic resources are effectively protected under any new agreement;

(d) Adopt national legislation to protect submarine cables and the surrounding marine environments.

Tourism

52. In 2016, 500 million people travelled internationally to visit coastal areas. While the economic contributions of tourism are significant — for certain small island nations, tourism accounts for as much as 50 per cent of gross domestic product — the environmental impact of coastal and ocean tourism has been devastating. Mangroves, coral reefs, nesting sites for marine turtles and seagrass

meadows have been cleared in many coastal areas to make way for hotels and beaches. The negative impact of tourism on ocean and coastal health is due largely to the overconcentration of tourists in specific destinations. This disturbs the ecosystem through overdevelopment and pollution, in particular from wastewater. Ocean cruises place additional stress on the ecosystem in the form of sewage, wastewater and pollution.

53. A parliamentarian from Belgium pointed out that people who visit coasts do so because they have a love for the sea. These ocean-loving tourists represent a potential international lobby of ocean advocates. Directing an ocean health public awareness campaign towards ocean tourists might mobilize half a billion tourists into environmental action. A related idea was the promulgation of "voluntourism" in which tourists spend a part of their trip working on coastal clean-up efforts or learning about the local fishing community. The market opportunities for consumers who wish to spend time near the ocean without causing harm were discussed. One example was encouraging tourists to factor in the environmental impact of different cruise lines' waste management systems when selecting their next cruise. Greater consumer awareness would incentivize hospitality and tour operators to clean up their environmental act.

54. A senator from Kenya proposed applying the model of ecotourism that originated with the Masai and the conservation of the savannah to coastal communities. In this model of ecotourism, environmental sustainability, cultural heritage and the participation of the indigenous community are core features. A human-centred approach to ecotourism involving the active participation of coastal communities was recommended.

Recommendations

55. The participants put forward the following recommendations:

(a) Encourage the private sector to pursue ecotourism in ocean and coastal environments;

(b) Engage hotel chains, cruise lines and other actors in the tourism industry to apply sustainable practices and create incentives throughout the industry to lessen its environmental impact;

(c) Integrate cultural heritage and the participation of local communities in ecotourism;

(d) Educate the general public and tourists, in particular, on the environmental impact of seaside holidays.

Climate change

56. Global warming worsens the harm done to the ocean. Ocean acidification, for example, has far more serious effects in a warming environment. The precondition for reversing ocean decline is therefore to cut emissions drastically, as a matter of urgency.

57. In 2015, the world's first comprehensive climate agreement, the Paris Agreement, was forged at the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change. It came into force on 4 November 2016. Signed by 194 countries and ratified by 134, the Paris Agreement is a commitment to reducing global emissions, especially in developed nations, and to limiting the increase in global average surface temperature to well below 2°C above pre-industrial levels. The agreement also commits signatories to increase their ability to adapt to the adverse impacts of climate change, foster

climate resilience and produce finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development. Developed countries have committed to mobilizing $100 billion per year in public and private finance by 2020 to support low-income and medium-income nations in adhering to the Paris Agreement.

58. Critics of the Paris Agreement note that the agreement is non-binding and that limiting temperature rise to less than 2°C above pre-industrial levels will not protect the earth from the dangers of melting ice sheets and rising sea levels.

59. Rising sea levels are a particular threat to the 183 countries that are either coastal or small island States. The International Organization for Migration projects that 200 million people will be displaced by 2050 owing to overall environmental changes.

60. In addition to cutting emissions, Governments can adopt "blue carbon" policies to enhance resilience to climate change. These include establishing marine protected areas that span latitudes or have corridors between them to allow for species migration and restoring mangrove forests, kelp and seagrass meadows. While such interventions can slow ocean decline, they cannot reverse it. Only drastic cuts in emissions in concert with other conservation efforts will be able to arrest ocean decline.

61. Participants noted that climate change needs to be addressed at the global, national and local levels. A speaker from Fiji described the myriad efforts her Government had made at the national level to protect coasts and coastal inhabitants, as well as local government efforts to involve communities in learning how to mitigate the effects of climate change. Despite a few blind spots and points of contention about the science of climate change and corresponding solutions, there is an overwhelming body of knowledge already available for policymakers to take decisive action.

62. Alternatives to energy based on fossil fuels include innovative technologies that harness energy from wind and deep ocean currents. These have the potential to replace less environmentally friendly energy sources; however, their impact on societies, economies and ecosystems must be assessed carefully.

Recommendations

63. The participants put forward the following recommendations:

(a) Ensure that national carbon dioxide reduction commitments are sufficiently ambitious to contribute to the global target of limiting global temperature rise to under 2°C above pre-industrial levels;

(b) Expand and manage coherent networks of marine protected areas to safeguard marine biodiversity and promote resilience;

(c) Protect coasts through conservation;

(d) Promote and apply blue economy approaches, emphasizing the economic benefits of low-carbon solutions to developing countries and small island developing States, in particular;

(e) Plan and implement policies at the global, national and local levels;

(f) Develop and support measures to address the issues associated with coastal and island population displacement, including the improvement of international law in terms of definitions, rights and procedures for climate refugees and migrants, including the development and implementation of financing measures;

(g) Earmark funds in global public finance mechanisms to support adaptation and mitigation in coastal areas and small island developing States;

(h) Track financial flows to support climate change efforts related to the ocean and coasts;

(i) Encourage private sector investments in "grey" coastal infrastructure (culverts, break walls and roads) for coastal habitat protection and restoration;

(j) Educate young people to become ocean-literate citizens and scientists;

(k) Educate the public to encourage environmentally conscious consumption.

International law, regulation and disputes

64. The efficacy of current international law to protect the ocean was discussed. Some participants believed the current legal regime governing the ocean was weak and that new, legally binding regulations on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction under the United Nations Convention on the Law of the Sea were necessary. Other participants took the view that existing international law was sufficient and that the problem was due to a combination of poor enforcement and limited resources. According to them, technological advances, such as big data, enabled much more comprehensive monitoring of the high seas and should translate into better enforcement and accountability.

65. Several parliamentarians from various regions noted that illegal fishing occurred regularly and seemingly without consequences. Several others voiced concerns about international disputes over coastal access, their exclusive economic zones and resources, including specific current conflicts. Others noted that the adjudication process under the International Tribunal for the Law of the Sea was too slow. Other parliamentarians expressed concerns about disputes with neighbours over coastal access and borders. As one parliamentarian said, "if you do not know what is your land or sea, you cannot conserve it".

66. For many nations, piracy is a threat within exclusive economic zones and on the high seas. Africa, which counts 38 coastal States, is particularly affected by piracy. Worldwide, 90 per cent of imports and exports are transported by water and a significant number of the most strategic commercial shipping lanes lie within African maritime jurisdictions. In addition to piracy, African countries must contend with illicit fishing in their waters and illicit trafficking in a wide range of goods, including arms and drugs, as well as in people. Recognizing that no single country can guarantee the security of its waters alone, 31 African nations signed the Charter on Maritime Security and Safety and Development in Africa (Lome Charter) in 2016, pledging a cooperative approach to bringing law, order and sustainability to the waters off the continent. The Charter awaits ratification.

Recommendations

67. The participants put forward the following recommendations:

(a) Strengthen governance of the high seas, including through better enforcement of international law and a more effective international dispute resolution mechanism;

(b) Establish extensive marine sanctuaries on the high seas to enable depleted fishing stocks to recover and marine life to flourish;

(c) Take resolute action against illegal fishing and criminal activities, such as piracy.

III. From words to action: the challenge of implementation

Role of international cooperation in saving the ocean

68. The ocean and its ecosystems cover the planet, irrespective of political borders. As a senator from Mexico said, "fish do not have passports". By its very nature, protecting the ocean is a transboundary endeavour that requires international cooperation. Parliamentarians underscored the importance of accountability and transparency on all ocean-related action, which should be based on the findings of the first World Ocean Assessment report and other properly vetted information.

Ocean data

69. Data-sharing is one form of international cooperation. Effective ocean policies begin with accurate information. In order to ensure that every country has access to first-rate data on marine environments, the first World Ocean Assessment was completed. It supports Governments by providing a framework for regional and national assessments and management decisions. The resource supports the implementation of the 2030 Agenda, especially Sustainable Development Goal 14, and will assist those assessing the implementation of Goal 14. Parliamentarians can improve their Governments' policymaking by incorporating information from the Assessment in their national and regional ocean governance policies and assessments.

Funding for Sustainable Development Goal 14

70. Several parliamentarians expressed concern that their Governments, though committed to Sustainable Development Goal 14, simply lack financial resources. There is a critical need for high-income countries to financially support the efforts of middle-income and low-income countries and to provide technical capacity-building. Small island developing States are experiencing the brunt of ocean pollution and overfishing, which are disproportionately the responsibility of large multinationals based in developed countries. Ensuring appropriate taxation of these companies and fines for breaches of international law will encourage sustainable practices and provide a revenue stream to address the lack of funding.

International law

71. Parliamentarians noted the lack of enforcement of existing international laws designed to protect the ocean. A legally binding instrument is needed to ensure the conservation and sustainable use of marine biological diversity of the high seas. Such a legal instrument is currently being negotiated at the United Nations. Participants lamented the slow pace of the negotiations. Parliamentarians can apply pressure to their Governments on this issue and direct them to take action on ocean protection. Such advocacy may help accelerate and focus the negotiations.

Integrated solutions at the national level

72. National governance with regard to the ocean involves not just one ministry, but every ministry. Each country should establish a ministry, council or other authoritative agency devoted to maritime issues in order to coordinate a government-wide strategy for achieving Sustainable Development Goal 14.

73. Several parliamentarians advocated the use of a process known as marine spatial planning, an adaptation of land-use planning for marine waters. The process recognizes the geographical features, natural resources and habitats of the marine area under national jurisdiction. It involves multiple ocean users, including local

citizens, representatives from energy, fishing, shipping, Government, conservation organizations and recreation providers surveying the current uses of the waters. It then uses that information to make informed and coordinated decisions about how to use and manage marine resources sustainably. The targets and indicators of Goal 14 should serve as reference points and organizing principles for this process.

74. A more participatory, bottom-up approach in marine policymaking was discussed. Participants noted that policy should not be informed exclusively by scientific knowledge but should also take account of local traditional knowledge, cultural practices and the knowledge of fishing communities.

75. The need to be sensitive to marine environments was illustrated by the example of street lighting in a seaside town. If street lights are placed without concern for local marine habitats, the brightest light that newly-hatched turtles see is not moonlight, but street lights. As a result, the turtles crawl in the direction of traffic. This is one example of the countless ways in which ocean-illiterate land-use planning can damage marine ecosystems.

76. It was suggested that Governments adopt a policy that all trade deals involving maritime transport be evaluated in the light of Sustainable Development Goal 14. Trade deals that directly or indirectly threaten ocean health and the achievement of Goal 14 should be rejected. Moreover, parliamentarians expressed concern that Governments had fewer resources for the implementation of the Sustainable Development Goals than might otherwise be the case because of corporate tax evasion. The role of parliamentarians in insisting on transparency with regard to corporate taxation and ensuring fair taxation was underscored.

77. The participation of many landlocked nations at the hearing was testament to the notion that the ocean extends "from mountain top to ocean floor". Parliamentarians from Bhutan, Bolivia (Plurinational State of) and Burundi, three landlocked countries, noted that rivers, streams and lakes are all part of the ocean system. A parliamentarian from the Democratic Republic of the Congo noted that Lake Tanganyika must be protected because its waters flow far downstream into the Atlantic Ocean. The interventions of these parliamentarians were important reminders that the ocean system reaches well beyond coasts.

78. Overall, the discussion made clear that, as one parliamentarian put it, "no single sector can tackle this alone". Even highly coordinated Governments cannot achieve their targets for Sustainable Development Goal 14 without the full support of citizens, civil society organizations and private companies.

Parliamentarians and their role in keeping Governments focused

79. In the lead-up to the Conference in June 2017, parliamentarians must help their Governments prepare for action on ocean sustainability. A sense of urgency around the issue is essential. Developed countries are encouraged to make generous voluntary commitments to support less developed nations in their work towards achieving Sustainable Development Goal 14. As one parliamentarian noted, the achievement of all of the Goals will require unprecedented amounts of money.

80. A parliamentarian from the United Kingdom of Great Britain and Northern Ireland encouraged his colleagues to embark on a three-step action plan with respect to the Conference:

(a) Before the Conference: in consultation with constituents, identify the position that their Governments should take on the issues that are being negotiated and advocate those positions with the relevant ministers;

(b) During the Conference: monitor their Government's commitments;

(c) After the Conference: hold their Governments responsible for implementing the commitments set out in the outcome document of the Conference and report to the Inter-Parliamentary Union on progress towards the realization of Sustainable Development Goal 14.

81. For more information about the process leading up to the Conference, parliamentarians were encouraged to visit the dedicated website (https://oceanconference.un.org/).

Public awareness and political will

82. Parliamentarians have an important role to play in raising their constituents' awareness of laws that will protect and sustain the ocean. Throughout the hearing, the following methods of raising public awareness were discussed.

Partnering with environment-focused non-governmental organizations

83. Non-governmental organizations provide expertise on environmental issues and can be highly effective in grass-roots activism, community-wide initiatives and social media campaigns. Parliamentarians can partner with such organizations to raise awareness about decisions facing the Government concerning ocean-related issues.

Advocating ocean literacy in national curricula

84. Parliamentarians can encourage their Governments to include ocean literacy in their respective national curricula. Citizens must be committed to sustainability as a rationale for personal and political choices.[2] Ocean literacy has practical benefits: a participant described how, during the 2005 tsunami, a young girl had saved herself and others, including her parents, because she had learned at school that waters receding dramatically were a sign of an incoming tsunami.

Developing a consumer force

85. By working with Governments to ensure that the private sector respects existing laws, parliamentarians can contribute to improved modes of production. By raising public awareness, parliamentarians can help citizens organize themselves as a consumer force that demands more sustainable goods.

Using social media: local, national and regional outreach

86. Parliamentarians noted that social media is effective for mobilizing citizens on environmental issues. Social media can help local, national and regional communities organize environmental advocacy and action.

Celebrating World Oceans Day on 8 June

87. World Oceans Day is a global day of celebration and collaboration for a better future. Parliamentarians suggested using 8 June to engage citizens in public awareness around ocean sustainability.

[2] There are many existing ocean literacy curricula that are of high quality, many of which are open-source and free of charge. One model of an effective ocean literacy programme is Green Schools Ireland, which promotes long-term, whole-school action on behalf of the environment in concert with the surrounding community.

IV. Conclusion: moving with purpose towards the Conference

88. In preparation for the Conference in June, parliamentarians will be working to foster discussions on the ocean within their parliaments and among constituents, generating political will for a strong outcome document. Parliamentarians are encouraged to request a briefing on their Governments' preparations for the Conference, as well as on the negotiations towards a new international legally binding agreement under the United Nations Convention on the Law of the Sea.

89. Parliamentarians will need to work proactively in support of laws, regulations and budgets that are consistent with the overarching objective of Sustainable Development Goal 14 to reverse the decline of the ocean and secure its long-term sustainability. This will require a more critical perspective on a way of life, particularly in developed countries, that has created unsustainable rates of consumption and pollution. The crisis of the ocean's health represents an opportunity for a shift in value systems and behaviour that is more aligned with sustainability and consideration for others, beginning with the most vulnerable.

90. The waters of the ocean are a common good, which constitutes a compelling argument for international cooperation and the observance of international law. What some countries do or fail to do affects all other countries and the high seas, which are not subject to the authority of any one country. All humans, even in inland States, are affected by the health of the ocean.

91. The problem of ocean decline is too large for any organization, country or sector to handle alone. All stakeholders, including Governments, parliaments, the private sector, civil society and non-governmental organizations, must work together to support the regeneration of the ocean.

Annex

List of speakers

Opening session

President of the General Assembly, Peter Thomson

President of the Inter-Parliamentary Union, Saber Chowdhury

Under-Secretary-General for Economic and Social Affairs, Wu Hongbo, on behalf of the Secretary-General

Session I

The state of the oceans: challenges and opportunities

Member of Parliament, House of Commons, United Kingdom of Great Britain and Northern Ireland, Nigel Evans

Ambassador, Deputy Permanent Representative of New Zealand to the United Nations, Carolyn Schwalger

Joint Coordinator, Group of Experts of the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects, Alan Simcock

Director, International Oceans Programme, National Resources Defence Council, Lisa Speer

Executive Secretary, Intergovernmental Oceanographic Commission, Vladimir Ryabinin

Session II

The economic benefit of oceans: balancing exploitation with environmental preservation

Senator, Senate of Mexico, Gabriela Cuevas

Senator, Senate of Kenya, John Munyes

Ambassador, Permanent Representative of Timor-Leste to the United Nations, Maria Helena Lopes de Jesus Pires

Chair of the Global Agenda Council on Oceans, World Economic Forum, Nishan Degnarain

Executive Secretary, International Collective in Support of Fishworkers, Sebastian Mathew

Session III

Protecting and preserving marine life: the disruptive effects of pollution, marine debris and other waste and opportunities for change

Deputy Prime Minister and Minister for International Development Cooperation and Climate, Sweden, and Co-President of the United Nations Conference to Support the Implementation of Sustainable Development Goal 14, Isabella Lövin

Ambassador, Permanent Representative of the Maldives to the United Nations, Ahmed Sareer

Co-Chair, Working Group on microplastics, Joint Group of Experts on the Scientific Aspects of Marine Protection, Chelsea Rochman

Founding President and CEO, World Ocean Council, Paul Holthus

Coordinator, Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities, United Nations Environment Programme, Habib El-Habr

The climate change connection: rising sea levels, acidification and other ecosystem changes

Speaker, Parliament of Fiji, Jiko Fatafehi Luveni
Ambassador, Permanent Representative of Monaco to the United Nations, Isabelle Picco

Professor at the Alfred Wegener Institute and Co-Chair of Working Group II, Intergovernmental Panel on Climate Change, Hans-Otto Pörtner

President of the Global Ocean Forum, Biliana Cicin-Sain

Session IV

Ocean governance: strengthening of peace, maritime security, cooperation and friendly relations among all nations

Member of Parliament, National Assembly of Thailand, Bilaibhan Sampatisiri

Commissioner for Environment, Maritime Affairs and Fisheries, European Commission, Karmenu Vella

Ambassador, Permanent Representative of Brazil to the United Nations, Mauro Vieira

Secretary-General, International Seabed Authority, Michael Lodge

Senior High Seas Adviser, Global Marine and Polar Programme, International Union for Conservation of Nature, Kristina Gjerde
Strategic Negotiator, Global Infrastructure at Google, Member of the International Cable Protection Committee, Jayne Stowell

Closing session

Secretary-General of the Inter-Parliamentary Union, Martin Chungong

President of the General Assembly, Peter Thomson

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Agenda item 32
Protracted conflicts in the GUAM area and their implications for international peace, security and development

Status of internally displaced persons and refugees from Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia

Report of the Secretary-General

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 70/265, in which the Assembly requested the Secretary-General to submit a comprehensive report at its seventy-first session on the implementation of the resolution. The report covers the period from 1 April 2016 to 31 March 2017 and draws on information received from a number of United Nations entities.

2. In accordance with the provisions of the resolution, the report focuses on: (a) the right of return of all refugees and internally displaced persons and their descendants, regardless of ethnicity; (b) the prohibition of forced demographic changes; (c) humanitarian access; (d) the importance of preserving the property rights of refugees and internally displaced persons; and (e) the development of a timetable to ensure the prompt voluntary return of all refugees and internally displaced persons to their homes.

II. Background

3. Following an escalation of conflict in 1992-1993, which caused significant displacement of civilians, armed hostilities between the Georgian and Abkhaz sides ended with the signing in Moscow on 14 May 1994 of the Agreement on a Ceasefire and Separation of Forces (see S/1994/583 and Corr.1). That agreement was preceded by the signing in Moscow on 4 April 1994 of the quadripartite agreement on the voluntary return of refugees and displaced persons (see S/1994/397), in which the parties agreed to cooperate and interact in planning and conducting activities to safeguard and guarantee the safe, secure and dignified return of people who had fled from areas in the conflict zone to the areas of their previous permanent residence. Armed hostilities between the Georgian and South Ossetian sides ended with the 24 June 1992 Sochi Agreement, which established a ceasefire between the Georgian and South Ossetian forces and the creation of the Joint Control Commission and Joint Peacekeeping Forces.

4. Following the hostilities which started in the Tskhinvali region/South Ossetia on 7 and 8 August 2008, the six-point ceasefire agreement of 12 August 2008 and the implementing measures of 8 September 2008 (see S/2008/631, paras. 7-15), international discussions were launched in Geneva on 15 October 2008, co-chaired by representatives of the European Union, the Organization for Security and Cooperation in Europe (OSCE) and the United Nations (see S/2009/69 and Corr.1, paras. 5-7). In accordance with the agreement, the international discussions were to address the issues of security and stability and the return of internally displaced persons and refugees. By the end of the reporting period, 39 rounds of the Geneva international discussions had been held, with participants meeting in two parallel working groups.

5. In June 2011, the General Assembly, in its resolution 65/288, approved the budget for the United Nations Representative to the Geneva International Discussions. The establishment of this special political mission has facilitated the continued engagement of the United Nations in the Geneva process. The United Nations Representative and his team are responsible for preparing, in consultation with the other two Co-Chairs and their teams, the sessions of the Geneva international discussions. In December 2015, the General Assembly, in its resolution 70/249 A, appropriated the programme budget for the biennium 2016-2017 for special political missions, including for the United Nations Representative to the Geneva International Discussions. Moreover, in my report on estimates in respect of special political missions, good offices and other political initiatives authorized by

the General Assembly and or the Security Council, I included among the proposed resource requirements for the period from 1 January to 31 December 2017 the United Nations Representative to the Geneva International Discussions, which has an open-ended mandate (see A/71/365 and Add.1).

6. The United Nations Representative to the Geneva International Discussions and his team are also responsible for preparing, convening and facilitating the periodic meetings of the Joint Incident Prevention and Response Mechanism under United Nations auspices in Gali (see S/2009/254, paras. 5 and 6). Since their inception and after a four-year suspension, a total of 45 meetings of the Mechanism had been held with Georgian, Abkhaz, Russian and European Union Monitoring Mission participation by the end of the reporting period. I urge all participants to continue to use the Mechanism effectively in order to prevent incidents and respond immediately to any security-related occurrences. I am hopeful that meetings of the Mechanism will continue to contribute to the maintenance of a stable and calm situation on the ground and to help address and resolve cases and issues of concern to participants in the Mechanism.

7. During the reporting period, participants in Working Group I of the Geneva international discussions continued to discuss the security situation on the ground. In all rounds of the Geneva international discussions that took place during the reporting period, all participants assessed the overall security situation as relatively calm and stable. They also continued discussions on the key issues of the non-use of force and international security arrangements. In that regard, it should be noted that international obligations constraining the use or threat of force, without prejudice to the right of individual or collective self-defence, are embodied in the Charter of the United Nations and other international instruments. There were also discussions on steps in the direction of pledges on the non-use of force, including on the unilateral statements by all relevant stakeholders. I encourage all relevant participants to engage constructively in Working Group I, including on the issues of the non-use of force and freedom of movement, in order to make tangible progress without delay.

8. Working Group II continued to focus on the humanitarian needs of all affected populations. Although the issue of internally displaced persons and refugees and their voluntary return was kept on the agenda, there was, regrettably, no discussion and no progress in addressing this important issue in the rounds of the Geneva international discussions. All participants repeatedly expressed the importance of the matter and their willingness to address it as part of and outside the Geneva international discussions. Regrettably, however, "walkouts" by some participants in the Geneva international discussions under this particular agenda item have become the norm. I strongly urge all participants to reconsider and refrain from these actions and to address all their respective concerns within the context of the Geneva international discussions. There was no sustainable return to areas of origin or habitual residence during the reporting period.

9. In the context of Working Group II, I am pleased to note that despite repeated disruptions of the discussion in the Working Group, caused by walkouts by some participants during the discussion of the agenda item dealing with "returns", there have been constructive discussions followed by concrete activities on humanitarian issues, including in relation to cultural heritage, environmental protection, in particular the fight against the box tree moth, and the issue of archives. The co-moderators discussed with participants the possibility of allowing humanitarian visits to religious sites, including graveyards, by relatives of the deceased, including those who were killed during the conflicts, across administrative boundary lines throughout the year, especially during the Easter period. I strongly urge the sides to favourably consider such "good faith" gestures in the future.

10. I reiterate previous calls to the participants to facilitate unfettered access for the Office of the United Nations High Commissioner for Human Rights (OHCHR) to allow it to determine the nature and scope of the human rights protection needs in line with its methodology and on the basis of international human rights standards and best practices. On 24 March 2017, the Human Rights Council adopted resolution 34/37, entitled "Cooperation with Georgia", in which the Council, inter alia, called for immediate access for OHCHR and international and regional human rights mechanisms to Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia. The Council also requested the United Nations High Commissioner for Human Rights to present an oral update to the Council on the follow-up to the resolution at its thirty-fifth session and to present a written report on developments relating to and the implementation of the resolution at its thirty-sixth session.

11. Another topic that sustained attention from all participants was the continued unknown fate of persons who went missing during the conflicts. The understanding shown by all participants of Working Group II for the plight of the families of the missing and the commitments made to engage meaningfully on the issue, in particular by supporting the work of the International Committee of the Red Cross, is commendable. Some progress has been made during the past year in relation to missing persons from South Ossetia through the work of a consultant recruited within the framework of the Geneva international discussions and sponsored by OSCE. While many humanitarian issues remain unresolved, the Geneva international discussions continue to offer an opportunity for participants to engage on such issues in a constructive manner.

12. In order to allow for more informed debates, special information sessions were conducted in conjunction with the formal rounds of the Geneva international discussions, allowing participants to benefit from the experience and advice of the United Nations, non-governmental organizations (NGOs) and other experts in various areas. Participants were given the opportunity to deepen their understanding of, inter alia, disaster risk management, public health preparedness, freedom of movement, "mother tongue-based" multilingual education and threat perception issues.

13. I am encouraged that during the entire reporting period, in general, the working atmosphere at the Geneva rounds has improved thanks to the efforts of all participants. They have repeatedly expressed their support and commitment to the process. While this is encouraging, improving the efficiency of the process and making tangible progress on the main issues in both working groups remains crucial to enhancing stability in the region and to making progress on the remaining security, humanitarian and other challenges. In this context, I once again fully support the efforts of the Co-Chairs to further stabilize the Geneva process by introducing ground rules for all participants, including the cessation of walkouts, to help create a conducive atmosphere for dialogue and practical problem-solving at the Geneva international discussions. I urge all participants to respect these ground rules in their entirety. I also join all the participants and Co-Chairs in reiterating that the Geneva international discussions remain the only forum for relevant stakeholders to meet and address the issues identified in General Assembly resolution 70/265.

III. Right of return

A. Scope of displacement, return and local integration

14. No major changes were observed during the reporting period with regard to internally displaced persons or refugees exercising their right to return, and no new significant displacements were registered. According to the database of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia, as at 1 January 2017 there were 273,765 individuals registered as internally displaced persons in Georgia. The largest numbers of internally displaced persons were registered in Tbilisi and Zugdidi. The generational aspects of displacement in the absence of durable solutions are of concern. According to data from the Ministry's Analytical Unit, the number of internally displaced persons increased by 11,061 between 2014 and 2017, primarily as a result of births.

15. While internally displaced persons retain the right to return, the Government of Georgia continued its efforts to provide internally displaced persons with durable housing solutions and access to livelihood opportunities. I commend the continued efforts of the Government of Georgia to support internally displaced persons, including with housing and other assistance. However, I am also concerned that by the end of 2016, only 40 per cent of all internally displaced persons had been provided with a durable housing solution. As the Special Rapporteur on the human rights of internally displaced persons observed during a follow-up visit to Georgia in September 2016, there remains an urgent need to continue to improve the living conditions of internally displaced persons, in both collective centres and in private accommodation. The Special Rapporteur has welcomed the Government's efforts to continue to provide internally displaced persons with durable housing on the basis of vulnerability criteria and following transparent allocation procedures jointly developed with NGOs. The Special Rapporteur also raised the need, however, for greater efforts to provide internally displaced persons with access to employment and livelihoods, notwithstanding the adoption of a livelihood action plan for internally displaced persons for the years 2016-2017 and the establishment of a legal entity of public law for livelihoods within the Ministry.

16. The authorities in control in Abkhazia continue to deny the return of ethnic Georgian internally displaced persons to locations of their origins or habitual residence that are outside of the Gali, Ochamchira and Tkvarcheli districts. The Office of the United Nations High Commissioner for Refugees (UNHCR) has repeatedly sought assurances from the authorities in control with regard to returnees' rights relating to permanent residence, freedom of movement, birth registration and property ownership. More generally, the United Nations has called for ensuring returnees' access to political rights, equal protection before the law, social security, health care, work and employment, education, freedom of thought, conscience and expression, and cultural life. In December 2016, the "Law on the Legal Status of Foreigners in Abkhazia" was amended to allow for the introduction of a "foreign residence permit", which would help ethnic Georgians living in Abkhazia to more easily exercise their rights; the "amendment" is expected to be implemented during the next reporting period. In the meantime, between July and December 2016, the Abkhaz authorities in control issued temporary identification documents (Form No. 9) to some 12,000 ethnic Georgians, allowing them freedom of movement, access to services and access to employment.

17. During the reporting period, the authorities in control in Abkhazia and the Government of Georgia allowed UNHCR to establish a shuttle bus to transport vulnerable persons free of charge across Inguri Bridge, the main crossing point across the Inguri River. This further enabled the elderly, persons with disabilities,

vulnerable women and children to cross for family visits, medical care or shopping purposes.

18. Also during the reporting period, for the first time since 2009, UNHCR was able to undertake a visit to upper Kodori Valley, which allowed it to assess the humanitarian situation in this isolated area, distribute much-needed cash and introduce recommendations for assistance, notably infrastructural repairs to improve accessibility and the provision of services. The Abkhaz authorities in control furthermore agreed that the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) could establish itself in Abkhazia to take over from UNHCR a partnership with a local NGO active in the prevention of and the response to various forms of sexual and gender-based violence.

19. The South Ossetian authorities in control have indicated their openness to the return of internally displaced persons to South Ossetia, although mainly to Akhalgori district and provided that the person is going to reside there. Visits to Akhalgori district appear to be possible for those displaced from that area and their relatives. The South Ossetian authorities in control have issued some 4,300 new crossing documents (*propusk*), which are in addition to some 1,000 South Ossetian so-called "passports" also allowing the crossing of the administrative boundary line. UNHCR continues to observe the regular movement of people across the administrative boundary line in South Ossetia, although a number of displaced persons are still deprived of such documentation for crossing.

20. I am pleased to note the humanitarian assessment mission in South Ossetia that was undertaken by UNHCR to the Tskhinvali and Akhalgori districts in August 2016, and I am grateful to all relevant stakeholders for facilitating the mission. Through the mission, UNHCR was able to observe ongoing efforts of the authorities in control to improve the life of people, in particular in Akhalgori district, including efforts to facilitate freedom of movement across the administrative boundary line. I urge such efforts to continue and to be further stepped up. During its short visit, UNHCR could also observe that 6 out of 11 schools in Akhalgori practice Georgian as the language of instruction. I urge all relevant stakeholders to facilitate efforts by UNHCR and other humanitarian organizations to deliver humanitarian assistance to persons in need, and I appeal to all relevant stakeholders to demonstrate flexibility and openness to provide unfettered, sustained humanitarian access.

21. UNHCR remains ready to resume consultations on the return of persons of concern to Abkhazia and South Ossetia with a view to securing the safe and voluntary nature of any such movement. I encourage all stakeholders to keep options for return open and to abstain from any restrictive measures. Moreover, further steps are needed to ease the crossing procedures in the area to allow individuals not only to maintain contact and follow developments in their home communities, but also to make a free and informed choice as to whether to return or to integrate in areas of displacement or elsewhere.

22. Regrettably, so-called "borderization" measures along the administrative boundary lines with both South Ossetia and Abkhazia continued throughout the reporting period. Monitoring missions by UNHCR identified that obstacles to freedom of movement continue to be mounted along the administrative boundary lines, including so-called "state border signs", watch posts and surveillance equipment. These measures reportedly enable the authorities in control in Abkhazia and South Ossetia, as well as Russian Federation border guards, to track and potentially detain villagers who intentionally or unintentionally cross the administrative boundary line, for example, when visiting graveyards or attending family business such as weddings, retrieving stray cattle, attending to irrigation channels or transiting to and from work in their fields. I am pleased that the

meetings of the Joint Incident Prevention and Response Mechanism in Ergneti and those in Gali have, in some instances, helped in negotiating the quick release of arrested villagers, and I call upon all entities to show humanitarian consideration for local villagers engaging in traditional livelihood activities.

23. The primary remaining protection and reintegration challenges relate to shelter rehabilitation needs and limited livelihood opportunities. The inability to freely access fields, orchards, traditional grazing grounds, forests and markets has reduced income and employment opportunities and further limited communication and relations between families living on opposite sides. The fencing measures along the administrative boundary lines exacerbated the already difficult living conditions of internally displaced persons and persons who are not internally displaced, including and in particular in the mountain regions of Georgia, characterized by a lack of access to services owing to isolation and lack of information. The previously existing societal structures of the villages have disintegrated and villages are emptying, with only a few elderly occupants remaining year-round in many locations. To mitigate the most harmful impact on the survival mechanisms and livelihoods of the population, the Government of Georgia's "Interim Governmental Commission Addressing the Needs of Affected Communities in Villages along the Dividing Line" continues to mobilize State funds for investment in villages affected by fencing to develop infrastructure relating to irrigation and drinking water, road connections, education, agriculture, shelter, heating and health.

24. Thanks to the efforts of the Government of Georgia and its international partners, the level of dissatisfaction of internally displaced persons regarding housing offered to them has decreased. This was enabled through important measures, including improved legislation regulating the provision of housing and increased offers of housing in urban and economic centres rather than in isolated rural areas. However, there are still concerns about the selection process for recipients, who are not always the most in need among the displaced population. Continued development of the hotline for internally displaced persons to reach ministry officials using low-cost Internet-based call-in-phone technology, and the addition of Internet chat and complaints mechanism components, supported by UNHCR, has been implemented at the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia. This allows internally displaced persons in remote locations to directly reach ministry officials without having to travel to Tbilisi, to express concerns and resolve problems. Other efforts, such as continued privatization and rural housing projects, which combine the provision of shelter with agricultural land, have expanded the housing options. However, considering the total needs, durable housing solutions remain limited. In that regard, alternative solutions deserve consideration.

25. Despite ongoing efforts to assist the internally displaced persons, given the scale of the displacement, substantial challenges concerning their integration remain. The Government of Georgia assessed that some $750 million would still be required to meet the remaining housing needs of internally displaced persons. This is the estimated cost of providing some 50,000 families with various types of accommodation. Despite Government efforts to provide alternative accommodation to internally displaced persons living in dilapidated collective centres, significant needs remain. The living conditions of internally displaced persons who reside in private accommodation are often equally poor as or even less favourable than those of persons residing in collective centres. Moreover, internally displaced persons living in private accommodation lack housing security and often move because of economic instability.

26. The provision of durable housing, while essential, is not the only aspect of integration. Socioeconomic aspects, such as sustainable livelihoods and access to

quality education, medical and social services, must be addressed also. While the United Nations agencies, funds and programmes, together with donors and other stakeholders, remain engaged and continue to assist the Government in protecting and ensuring the rights of the affected populations, acute humanitarian crises in other parts of the world have had a negative impact on the funding level for humanitarian projects in Georgia. Moreover, further progress in integrating and improving the living conditions of internally displaced persons is becoming less a question of humanitarian response and more a matter of mainstreaming their interests into broader development efforts. While the adoption of a livelihood strategy for internally displaced persons is a welcome development, it is now crucial and urgent that the socioeconomic needs of internally displaced persons be addressed alongside those of the local population within the context of national and regional development agendas. The costs of meeting the needs of underdeveloped and impoverished regions are substantial and also require increased State budget allocations.

27. I welcome the decision of the Government of Georgia to reform the assistance to internally displaced persons, to be informed by needs and vulnerabilities, applying a scoring system rather than being based on registration in the database. This is in line with the recommendations of the Special Rapporteur on the human rights of internally displaced persons, who highlighted that "internally displaced person status" is not provided for by international law and that alternative ways of supporting internally displaced persons should be sought that allow for the ending of internally displaced person status and the inheritance thereof, while also allowing internally displaced persons to retain the right of return. The Special Rapporteur has also called for an inclusive and participatory process, involving civil society, international organizations and internally displaced persons themselves in implementing the gradual shift to a needs-based approach to the response to internally displaced persons and in mainstreaming the needs of internally displaced persons in existing local, regional and national development initiatives and in the national social assistance scheme. The Government is reportedly following up on these recommendations, while applying a "mixed model" in mainstreaming assistance to internally displaced persons in the social welfare system, yet retaining a separate assistance programme of a blanket monthly assistance of 45 lari for each internally displaced person who has not yet benefited from a durable housing solution. Echoing the Special Rapporteur, I call upon the Government of Georgia to redouble efforts to allocate sufficient State budget resources to development efforts that include the needs of internally displaced persons, and I also call upon the donor community to remain engaged in providing the funding and support necessary for such displacement-sensitive development initiatives in Georgia.

28. It is estimated that over 45,000 people have previously spontaneously returned to their homes in Gali district. There has been progress in their reintegration, although important needs and protection challenges remain. Those who spontaneously returned to Abkhazia are still officially considered internally displaced persons by the Government of Georgia and, as such, are eligible for assistance. This financial coverage by the Government of Georgia should not relieve the Abkhaz authorities in control from providing returnees with the proper documentation and full access to rights and services.

29. Concerns regarding limitations on basic rights, including freedom of movement, increased as a result of two new so-called "laws": the "Law on the Legal Status of Foreigners in Abhkazia" and the "Law on Procedures of Exit from the Republic of Abkhazia and the Entry into the Republic of Abkhazia", both of which were promulgated by the Abkhaz authorities in control in December 2015, with most provisions coming into force in April 2016. Similar "laws" were also

introduced by the authorities in control in South Ossetia. These provide for the issuance of documentation to the population who are thereby designated as "foreign" or "stateless". While the creation of opportunities to obtain documents from the Abkhaz authorities in control is important to facilitate freedom of movement and access to rights and services for the ethnic Georgian returnee population in the eastern part of Abkhazia, as evidenced by the issuance of some 12,000 Form No. 9 documents (temporary identification documents) during the second half of 2016, the designation of a population that has resided in Abkhazia for multiple generations as "foreigners", the lack of access to political, property, social security and other rights, risk of expulsion for a broad range of perceived transgressions and limited duration and renewal requirements for documents all continue to raise concerns.

30. In the context of freedom of movement, the lack of proper documents, the continuing "borderization" process and the closure of four of the six entry and exit points during the reporting period further restricted the ability of the population in Abkhazia to travel across the administrative boundary line. Those who do hold documentation that allows for their freedom of movement now have to travel long distances as a result of closures. The closure of the crossing points at Nabakevi/Nabakia and Otobaia-2/Bgoura now significantly complicates movement across the administrative boundary line, in particular for family visits, land tenure and shopping purposes, and notably for medical evacuations and participation in mother-tongue education. Not only does this closure have a negative impact on the fundamental right to freedom of movement allowing for people-to-people contact across the dividing line, it also further impoverishes the ethnic Georgian population in the eastern part of Abkhazia, which is now bound to purchase food and non-food items in Gali district, where prices are often double those across the administrative boundary line. I reiterate my past calls for the participants in the Geneva international discussions to refrain from any unilateral action that may have an adverse impact on the humanitarian situation of the affected populations and their access to rights and services and undermine the work of the discussions.

31. While the debate about the future status of the returnee population in Abkhazia continues, the returnee population remains concerned about the regularization of its stay and documentation. With efforts under way to address status and documentation issues that appear to facilitate movement, notably the announced introduction of the "foreign resident permit" under the amended so-called "Law on the Legal Status of Foreigners in Abkhazia", it is important that these efforts materialize in a predictable manner in order to enhance confidence and preserve mobility across the administrative boundary line. A variety of infrastructure and livelihood initiatives financed by the international community during the reporting period had a positive impact on the humanitarian and security situation of the population in Gali district and on the reintegration prospects for returnees.

32. While the so-called "treaty on alliance and strategic partnership" provides for "joint Russian-Abkhaz security forces for collective defence" and "joint law enforcement structures for fighting crime", implementation of these measures has reportedly resulted in further restrictions and control of movement along the Inguri River, with the increased presence of and document control by Russian security forces and so-called Abkhaz "security forces". I urge the authorities in control to reopen some of the closed crossing points as soon as possible. The remaining crossing point, together with that of the central Inguri Bridge, which also serves as a crossing for vehicles, has assured relatively orderly crossing for the local population. But the distance makes it difficult to reach for the large majority of the 750 persons who on average used to cross the administrative boundary line at Nabakevi/Nabakia and Otobaia-2/Bgoura. This is despite stated efforts by the

Abkhaz authorities in control to provide additional transport options for those living further away and to facilitate faster crossings across the Inguri Bridge.

33. Additional protection and reintegration challenges remain in eastern parts of Abkhazia. While generally expressing appreciation for the assistance received, the local population continues to report a sense of insecurity, particularly about the future. Remaining specific protection concerns expressed by the returnees relate to: (a) freedom of movement, in particular the longer-term perspective, as messages from authorities in control are perceived as not always being consistent; (b) documentation required to exercise freedom of movement, enjoy rights and gain access to services; (c) access to education, including higher education, and language of instruction; (d) secure access to quality health care (on both sides of the administrative boundary line); (e) occasional incidents of discrimination, including those related to documentation and taxes; and (f) denial of effective protection against crime and adequate response to sexual and gender-based violence. A significant segment of the population in Gali, Tkvarcheli and Ochamchira districts has no valid documentation. The non-issuance of proper documentation in the past eight years has had a substantial negative impact on children, whose parents were not able to obtain necessary documents for them owing to their own lack of valid documents.

34. Since the conflict in August 2008, the United Nations agencies, funds and programmes have regrettably lacked operational access to South Ossetia apart from the humanitarian assessment mission conducted by UNHCR in August 2016. The recent assessment mission provided some information on displacement and return movements, notably to Akhalgori, as well as the humanitarian needs of the population in South Ossetia more generally. However, in order to further assess the humanitarian situation and identify and address specific needs, as well as facilitating freedom of movement across the administrative boundary line, sustained humanitarian access needs to be discussed and agreed with both the authorities in control and the Government of Georgia. In addition, in preparation for the rounds of the Geneva international discussions, the Co-Chairs and United Nations staff were able to visit Tskhinvali and familiarize themselves with the latest developments. I strongly encourage the relevant stakeholders to help to actively facilitate access to South Ossetia in order to allow UNHCR and other humanitarian and development agencies to provide assistance to the population and support the particularly vulnerable among those displaced.

B. Institutional framework and operational measures

35. The United Nations-coordinated "Abkhaz strategic partnership framework", established among humanitarian partners, remained in force during the reporting period. In addition to building confidence, it aimed at achieving durable solutions for returnees through integrated protection and assistance activities and promotion of their rights in Gali, Ochamchira and Tkvarcheli districts. The initial focus on returnees has over the years been replaced by agency strategies and actions targeting all vulnerable populations in Abkhazia. Such efforts bring together as strategic partners, under the overall coordination of the United Nations Resident Coordinator, UNHCR, the United Nations Development Programme (UNDP), the United Nations Children's Fund (UNICEF), UN-Women and international NGOs, namely, Action Against Hunger, the Danish Refugee Council and World Vision International, as well as some additional humanitarian actors in an observer capacity. Collectively, support is provided in multiple sectors: health; livelihoods, agriculture and economic recovery; housing assistance and community infrastructure; education, youth and social services; environment; and protection.

36. The status-neutral liaison mechanism, established by UNDP in 2012 (see A/64/819, para. 13, and A/65/846, para. 21), continued to operate during the reporting period, including in facilitating the delivery of vaccines, medicine and other forms of humanitarian assistance to Abkhazia. The effectiveness of this mechanism is based in large part on the acceptance and support by all sides for its status-neutral and human rights-based approach.

37. During the reporting period, the United Nations agencies, funds and programmes continued to respond to humanitarian needs. UNICEF continued to support improving access for vulnerable mothers, children and youth throughout Abkhazia to quality health-care, education (including mother tongue-based multilingual education) and social services. In particular, UNICEF continued to support the routine immunization programme and, together with UNDP, provided equipment to medical institutions. UNICEF has also organized training for medical professionals in the fields of maternal and child health care, HIV/AIDS, sexually transmitted infections, oncology, healthy lifestyles and emergency medical care, as well as information technology skills. UNICEF further provided rural medical points with basic equipment and training, and carried out hygiene and immunization promotion and education activities in rural schools. In cooperation with World Vision International and local partners, UNICEF also continued to support basic social services for children living with disabilities and their families. UNICEF also started a training programme for teachers in Abkhazia on student-centred teaching methodologies and continued to support youth participation and development, as well as confidence-building, through 36 youth clubs throughout the conflict-affected areas of Abkhazia, Samegrelo and Shida Kartli. UNDP continued to support improved access to health care for conflict-affected communities in Abkhazia by rehabilitating crucial medical infrastructure and building the capacity of medical personnel and teachers. In 2016, UNDP implemented the non-structural rehabilitation of the Inguri Bridge, significantly improving humanitarian conditions for hundreds of thousands of travellers crossing it every year.

38. Over the past few years, UNDP has paid special attention to youth in returnee and conflict-affected communities and their connectivity to various international educational opportunities. In 2014-2015, in collaboration with local NGOs, UNDP created a network of seven computer-based training centres offering access to information technology and training to more than 1,100 local beneficiaries. In 2016 and the first half of 2017, UNDP supported 15 schools with information technology equipment and facilitated computer skills training for over 500 teachers and students in Abkhazia. UNDP continued to support electronic library and innovative information technology initiatives at a local university and offered young people English language classes with certification that enabled them to access graduate and postgraduate education abroad. It also promoted student-centred methodologies in foreign language learning in rural schools and a university.

39. UNHCR, in partnership with local and international NGOs and authorities in control, continued to address obstacles to sustainable return by providing a limited number of individual cash grants to vulnerable families, legal advice and counselling in relation to documentation issues and access to rights and services. Moreover, efforts to strengthen the prevention of and response to sexual and gender-based violence continued through medical, legal and psychosocial counselling and awareness-raising campaigns by a local NGO. UNHCR transferred its partnership with this organization to UN-Women on 1 January 2017 as a reflection of the transition towards a development approach to this activity. UNHCR also implemented the rehabilitation of small community infrastructure projects, provided employment opportunities for young returnees and free transportation for a number of children to their schools and for vulnerable persons among the daily commuters

over the Inguri Bridge. While UNHCR as a humanitarian agency has over the years reduced its individual material assistance in Abkhazia, it remains committed to the provision of community-based forms of support, notably to enhance the protection of vulnerable persons and the rehabilitation of community infrastructure, benefiting both returnees and host communities. UNHCR will also continue to advocate for development actors to engage in funding and support for livelihood projects in both urban and rural centres and for the enhancement of public works and infrastructure.

40. The issue of freedom of movement across the administrative boundary line has security, humanitarian and human rights dimensions and remains of utmost importance to the local population. Developments during the reporting period were marked by two trends: enhanced control and limitations, and formalization of crossings. So-called "borderization" measures, including the decision by the authorities in control in Abkhazia to close all but two crossing points, blockage of footpaths, increased and more systematic surveillance by Russian Federation border guards and strict fining practices, were reported. The local population was able to continue to move across the Inguri Bridge. Regrettably, however, four crossing points have been closed by the authorities in control in Abkhazia, with only two remaining operational (main Inguri and Saberio-Papinrkhua/Pakhulani). I strongly encourage the relevant authorities to take all steps to facilitate the freedom of movement and freedom of travel of all segments of the local population and allow their movement and travel in safety and dignity. In this context, I welcome the rehabilitation of the Inguri Bridge by UNDP and the operation by UNHCR of a shuttle bus traversing this bridge for vulnerable persons, and I hope that this service can be expanded through the establishment of a second shuttle bus given the high demand for and satisfaction expressed by all with this service.

41. Persons in need should be able to gain access to medical attention wherever it can be offered as quickly as possible and at the highest possible standard. I call upon all stakeholders to exercise maximum care and flexibility in this regard and improve the conditions for the crossings, including through the introduction of a fast-track procedure for the vulnerable. Similarly, schoolchildren of ethnic Georgian descent should benefit from instruction in their mother tongue if so wished, and access to such instruction should be facilitated within reasonable travel time and through the shortest possible crossing of the administrative boundary line.

42. The local population in Gali district, including returnees, remains concerned about freedom of movement, continued contact with family members and friends residing on the other side of the Inguri River and access to social infrastructure, including medical facilities and markets in Zugdidi district. The development and implementation of a crossing regime that allays those concerns remains crucial for improving the living conditions of the local population, advancing the reintegration of returnees and preventing renewed displacement. In that context, it is essential to identify and implement solutions for the provision of documentation in conformity with international law, including international human rights law, and the principles governing the prevention and reduction of statelessness. I urge the respective authorities to take pragmatic steps to solve this recurring problem without delay and allow children especially to cross at convenient and safe locations.

43. There is a complex nexus between the individual right to voluntary, safe and dignified return and the establishment of the conditions conducive to such return. The individual's right to return, in the case of an internally displaced person, derives from his or her right to freedom of movement as stipulated in international human rights instruments. It is essential to recognize that return is both a human right and a humanitarian issue and therefore cannot be directly linked to political questions or the conclusion of peace agreements. It must be addressed irrespective of any solution to the underlying conflict. At the same time, it is primarily for the

individual to assess the risks and make an informed choice as to whether or not to return at a given time. In doing so, a displaced person must be able to take into account all factors that could affect his or her safety, dignity and ability to exercise basic human rights.

44. The United Nations is committed to assisting States in the search for durable solutions for displaced populations, and its engagement is based on the understanding that voluntary return in safety and dignity is one durable solution, the other two being local integration and resettlement. The role of the United Nations in the facilitation, design and implementation of organized return operations must be guided by the need to avoid causing harm or contributing to the exposure of persons of concern to possible human rights violations; any returns must be voluntary and conducted in safety and dignity. Therefore, activities related to organized returns must be based on a careful risk assessment, taking into consideration the existing security and human rights conditions and concerns, access to livelihoods and basic services and the voluntary nature of return. Unhindered humanitarian access and the ability of the United Nations and its mandated agencies, funds and programmes to effectively monitor all these factors is another aspect to be taken into account.

IV. Prohibition of forced demographic changes

45. Relevant international human rights standards should guide managed population movements, including evacuations, and thereby strictly limit forced movements, including those that result in demographic change. Principles and provisions of international law mentioned in my previous reports, as well as non-refoulement obligations governing the protection of refugees and others who flee their homes as a result of or in order to avoid the effects of armed conflict and situations of generalized violence, remain fully applicable. While no major new displacement was observed during the reporting period, the demographic consequences of earlier displacement remain.

V. Humanitarian access

A. International legal foundations governing humanitarian access

46. The need to establish and maintain humanitarian space is essential in order to effectively meet the humanitarian needs of conflict-affected and displaced populations, to mitigate suffering and to enable United Nations agencies, funds and programmes to exercise their mandates. In that context, it remains important that all sides respect their obligations and act in good faith to fully implement the principle of humanitarian access, which is rooted in international humanitarian and human rights law. The free passage of relief goods and the facilitation of humanitarian operations are correlated to a number of human rights, including the right to life, the right to a decent standard of living and the right to protection against discrimination. Moreover, building on the practice of the United Nations human rights treaty bodies, there is growing acceptance that the obligation of States to respect, protect and fulfil human rights includes an obligation to invite, accept and facilitate international (humanitarian) assistance, in particular if the State's resource capacities or other obstacles, such as a lack of effective control of parts of the territory, limit its capacity to effectively address all humanitarian needs.

47. In the context of international conflict situations, international humanitarian law requires the establishment of conditions for the rapid and unimpeded passage of all relief consignments, equipment and personnel. In non-international conflicts,

States must organize relief actions for the civilian population, without any adverse distinction. The universal acceptance of those rules has established, as a norm of customary law in both international and non-international conflicts, that parties to a conflict must allow and facilitate the rapid and unimpeded passage of humanitarian relief for civilians in need. Furthermore, arrangements pertaining to relief personnel must be simplified to the greatest extent possible. I therefore encourage measures to enable and facilitate such efforts, made difficult by the Georgian "Law on Occupied Territories" in its current form and by the increased controls and limitations imposed by the authorities in control in Abkhazia and South Ossetia in relation to the movement and presence of humanitarian agencies and their personnel.

B. Operational challenges

48. I have previously informed the General Assembly of the Government of Georgia's declared intention to pursue a more open form of engagement, and I continue to welcome such efforts. However, ambiguities in the current legislation, and also between the "Law on Occupied Territories" and the "State strategy on occupied territories", complicate the operational environment for international and local actors involved in humanitarian, peacebuilding and other activities and constrain the development of an enabling environment for more direct and effective interaction. In the spirit of constructive engagement, I encourage the Government of Georgia to facilitate and enable such efforts, allowing for unhindered, sustainable humanitarian access and service delivery by humanitarian partners and permitting the conduct of financial and administrative transactions by these partners.

49. The United Nations agencies, funds and programmes were able to implement protection, humanitarian assistance, recovery and development activities in Abkhazia as planned. However, the restrictions preventing local staff of international organizations, including United Nations agencies, from obtaining permits for crossing the administrative boundary line from the authorities in control in Abkhazia further complicate such humanitarian movements. Moreover, recent restrictions on travel to the lower Gali zone — for international personnel, a permit to access the zone is required at checkpoints — bring new impediments to the effective operation of international organizations in Abkhazia. In addition, ongoing humanitarian needs notwithstanding, it is widely recognized, including by the international donor community, that needs have increasingly shifted from humanitarian assistance towards early recovery activities and to the delivery of more sustainable support. The United Nations Resident Coordinator is facilitating an inclusive dialogue on this matter among international donors and with relevant authorities.

50. On 30 January 2015, the authorities in control in Abkhazia communicated formally their agreement to allow the work of all international and non-governmental organizations within Gali, Ochamchira and Tkvarcheli districts and of United Nations agencies without geographical restrictions. The communication superseded the letter of 28 January 2013 to several agencies requesting a focus of activities on Gali district. This approach, whenever fully implemented, allows agencies to contribute to addressing the needs of the most vulnerable in all areas of Abkhazia and is in line with international standards for the work of international agencies. It should continue to be implemented in a consistent manner.

51. However, since May 2015, the authorities in control in Abkhazia have introduced procedures obliging the national staff of United Nations agencies and international NGOs in Abkhazia to undergo interviews with the Abkhaz "security service" before crossing the administrative boundary line. This practice has limited

the operational flexibility of United Nations agencies and international NGOs in Abkhazia, adding to already existing operational difficulties caused by the fact that national staff of United Nations agencies and international NGOs are not allowed access to Abkhazia. I call upon all relevant parties to ensure unimpeded access for all categories of personnel of all United Nations agencies and international NGOs.

52. Given the need for a proper transition from humanitarian assistance through recovery to longer-term sustainable development, it is important to avoid gaps in the transition process and ensure that the remaining humanitarian needs and contingency considerations are fully met. In this regard, I reiterate my call for respect for the international principles governing humanitarian access, including the unhindered movement of personnel of international organizations, for flexibility and for practical approaches and measures to be taken by all stakeholders therein. Consultations must also continue among all relevant stakeholders in order to ensure the flow of up-to-date information on the humanitarian needs of the population and to improve coordination.

VI. Property rights of refugees and internally displaced persons

53. Property-related issues remained on the agenda of Working Group II of the Geneva international discussions. Obstacles to resolving those issues, as well as my call for all parties to adhere to the principles on housing and property restitution for refugees and displaced persons (referred to as the "Pinheiro principles") and the underlying norms of international law, including international human rights law, as outlined in my report of 20 May 2013 (see A/67/869, paras. 58-60), remain valid. The Special Rapporteur on the human rights of internally displaced persons noted during the visit in September 2016 that internally displaced persons are entitled to the restitution of, or compensation for, their lost property, regardless of whether they have chosen to return, integrate in their area of displacement or relocate elsewhere.

VII. Timetable for the voluntary return of all refugees and internally displaced persons and work towards durable solutions

54. No agreement or timetable for the voluntary return of all refugees and internally displaced persons has been developed, given the prevailing environment and continued discussions among the parties. Working Group II of the Geneva international discussions could not deal with the issue of voluntary return owing to the continued unwillingness of some participants to discuss the matter. I reiterate that as long as the conditions for organized returns in safety and dignity are not fulfilled and mechanisms for property restitution are not established, the design of a comprehensive timetable or road map for returns must remain an open matter to be addressed. Those challenges should not prevent the parties from working towards identifying durable solutions for all displaced persons, giving particular attention to the implementation of the right of return. I reiterate my call for all participants in the Geneva international discussions to engage constructively on this issue, in accordance with international law and relevant principles.

55. In the absence of conditions conducive to organized return and appropriate implementation mechanisms, the United Nations agencies, funds and programmes will continue to concentrate their efforts on providing the conflict-affected populations, including returnees or persons in the process of returning, with assistance and support for their reintegration. The United Nations agencies, funds

and programmes remain committed to proceeding at the appropriate time, in consultation and cooperation with all parties concerned, with the development of a timetable or road map addressing all components outlined in my report (A/63/950).

VIII. Conclusion

56. Over the past eight and a half years, the Geneva international discussions, co-chaired by the United Nations, the European Union and OSCE, have remained the single forum for the stakeholders to discuss security and stability and humanitarian issues, in particular those relating to the return of refugees and internally displaced persons. Despite the difficult nature of the discussions, the complexity of the issues and divergence in the positions, the participants in the discussions have continued to engage on a regular basis. These efforts, together with humanitarian engagement by a variety of United Nations agencies, funds and programmes and other actors, have contributed to some improvements in the security and humanitarian situation on the ground, but have not resulted in conditions conducive to the return of displaced populations.

57. Regrettably, a number of key security, humanitarian, human rights and development challenges remain unresolved. I am also concerned by the continued negative trends related to the so-called "borderization", restrictions on freedom of movement and other unilateral actions, including those that inhibit the possible return of internally displaced persons as well as the ability of humanitarian and development actors to operate freely in Abkhazia and South Ossetia.

58. I urge all stakeholders to demonstrate sufficient political will to undertake practical and constructive efforts to make tangible progress on key security and humanitarian issues on the agenda of the Geneva international discussions. This is critical in order to enable the improvement of the security and human rights situation and to meet the pressing humanitarian concerns of the affected population, including internally displaced persons, as well as to enable sustainable peace and development for the entire region. While I am encouraged by the stakeholders' commitment to the Geneva international discussions, I once again call upon all participants to uphold and deepen their engagement in the Geneva international discussions, including the meetings of the Joint Incident Prevention and Response Mechanism in Gali and Ergneti; to preserve and expand humanitarian space and respect for human rights; and to refrain from any unilateral actions that may have an adverse impact on regional peace and security and the humanitarian and development situation of affected populations and undermine the work of the Geneva international discussions. I also urge donors to continue and strengthen their support for the multifaceted humanitarian, development, conflict prevention and confidence-building efforts.